

REMARKS

Presently, claims 1-10 and 12-18 and 60-72 are pending in the application. Claims 11 and 19-59 have been canceled. Claim 1 has been amended to more particularly point out the present invention. Support for the amendments to independent claim 1 may be found, for example, at page 13, line 20 – page 14, line 15 of the specification. Claims 2-3, 5-6, 8-10, 12-13 and 15-18 have been amended to correct formal matters noted by Applicants and to be consistent with amended claim 1. New claims 60-72 have been added to alternatively recite the present invention. Support for the features of new claims 60-63 may be found, for example, at page 13, line 20 – page 14, line 15 of the specification. New claims 64-72 correspond to original claims 8, 10 and 12-18, respectively. Accordingly, no new matter has been added to the application by the foregoing amendments.

Examiner Interview

Applicants thank Examiner Sheleheda for the courtesies extended during a personal interview conducted on February 23, 2005, to discuss the present application and Office Action. During the interview, proposed amendments to the claims were discussed. Applicants' reasons as to why such amendments overcome the Examiner's prior art rejections were also discussed. Such reasons are detailed below.

As a result of the interview, the Examiner stated that the proposed amendments and arguments with respect to claim 1 were understood and appeared to be compelling, but reserved the right to review Applicants' amendments and arguments in detail upon submission of a formal response. The amendments submitted herewith include the amendments discussed with the Examiner during the interview.

Claim Rejections – § 103(a)

The Examiner has rejected claims 1, 2, 7, 8, 10-21, 24-39, 47-52 and 56-59 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,698,020 to Zigmond *et al.* ("Zigmond") in view of U.S. Patent Publication No. 2003/0200128 A1 Doherty

("Doherty"). The Examiner contends that Zigmond teaches all features of the claimed invention with the exception of a queue having an ordered list of advertisement resource locators ("ARLs") and retrieving an ARL from the queue in accordance with the ordered list. The Examiner further contends that Doherty teaches these features, and concludes that it would have been obvious to modify Zigmond's system to include an ordered list as taught by Doherty, resulting in Applicants' claimed invention. In view of the foregoing amendments, Applicants respectfully traverse this rejection.

Zigmond teaches a system and method for selecting and inserting advertisements into a video programming feed, and is particularly directed to where and how ad selection is accomplished. In Zigmond, ads are delivered to the viewer by being multiplexed with the programming feed, transmitted over another, separate network, or periodically download to the insertion device. "Household data", including viewer, system and/or demographic information, characterizes the viewer, and is referenced to determine which ads should be inserted into the programming feed. The programming feed is interrupted by an "ad insertion device" that inserts the selected ad. Zigmond's system has the ability to select ads on demand.

Doherty teaches a method of scheduling "items of information" (including advertisements) intended for display to localized audiences (e.g., in public transport or waiting areas). In Doherty, each item is assigned a priority according to when it would be most useful to be displayed; the items are then scheduled for display based on their priority. The most suitable ads are determined by calculating priority as a function of time under the "current conditions", such as location, user profile, time remaining for display, etc. Doherty includes a user activity analyzer that monitors user interaction and develops a user profile to assist the scheduler. The priority determination is made "on the run" to react to unpredictable user interaction. The current schedule of items is cleared, for example, when user interaction is detected or other triggering events (such as the beginning of the display period) occur.

Independent claim 1, as amended, recites:

A method of selectively inserting unscheduled advertisements into a stream of television programming at different receiving nodes of a communications network, said method comprising:

- (a) transmitting a stream of television programming from a central location to one or more receiving nodes;
- (b) storing unscheduled advertisements at a node of said network;
- (c) storing one or more queues, each of said queues corresponding to a subset of said receiving nodes, said queues comprising an ordered list of advertisement resource locators (ARLs), each of said ARLs comprising data disclosing a location of a corresponding unscheduled advertisement;
- (d) selling locations in said queues;
- (e) determining, at each of said receiving nodes, intervals in said stream within which advertisements may be inserted;
- (f) responsive to said determination, retrieving from said queue corresponding to said receiving node one of said ARLs in accordance with said order; and
- (g) inserting said unscheduled advertisement corresponding to said retrieved ARL into said stream at said receiving node within said determined interval.

Zigmond does not teach or suggest a method that includes “storing unscheduled advertisements” and storing queues having an “ordered list of ARLs” corresponding to the unscheduled advertisements. Initially, Applicants point out that Zigmond’s system does not use or insert unscheduled advertisements. That is, the ads that are being inserted into the program stream in Zigmond are “scheduled” ads (i.e., ads that are associated with a particular advertisement space, time slot and/or program content). In contrast, the present invention inserts unscheduled ads – ads that may or may not be inserted into the program stream, since they are not associated with a particular advertisement space, time slot and/or program content. Furthermore, as the Examiner acknowledges, Zigmond does not teach or suggest a queue that includes an ordered list of ARLs that correspond to the

unscheduled ads to be displayed to the subscriber. Rather, Zigmond teaches simply selecting an advertisement from several available ads. Moreover, since Zigmond does not teach or suggest a queue effectively holding an order for ads to be displayed, Zigmond certainly does not teach the concept of selling locations within that queue. Accordingly, Zigmond does not teach or suggest the features recited in independent claim 1.

Doherty also does not teach or suggest the insertion of unscheduled advertisements into a program stream. As with Zigmond, Doherty's system inserts scheduled ads into the program stream. Doherty teaches the creation of an ad schedule which is used for immediate presentation of the ads as determined by the schedule. The ad schedule is based on the assigned priority of each ad under the current conditions. The priority of the ads (and thus the ad schedule) are determined as a function of time (see, for example, paragraphs [0007] and [0025] of Doherty). Accordingly, Doherty's system generates a definite time-based schedule of which and when ads are to be inserted. However, as discussed above, the present invention inserts unscheduled ads. Furthermore, although Doherty specifies that ads are scheduled for delivery based their determined priority under the current conditions, Applicants respectfully submit that Doherty does not teach or suggest creating or storing a queue having ordered list of ARLs corresponding to the unscheduled ads to be inserted. Referring to paragraph [0025], Doherty suggests that the ads are prioritized and scheduled "at a particular instant in time rather than placing them in a queue." Thus, Doherty teaches away from the concept of using an order or queue to insert unscheduled advertisements into a program stream. Moreover, even if Doherty's system teaches determining an "order" or "queue" for the insertion of ads, Doherty does not teach or suggest that selling locations within that queue. In traditional ad display schemes (such as Doherty), it is the particular ad space that is sold to advertisers. In the present invention, the individual locations within the queue are sold, such that, even if a queue is changed or reordered, a third party has the ability to always own a desired position within the list of unscheduled ads to be displayed. Accordingly, Doherty does not teach or suggest the features recited in independent claim 1.

Not only do Zigmond and Doherty not individually teach the present invention, but, even if these references are taken in combination as suggested by the Examiner, such a combination fails to teach or suggest all of the features of claim 1. More specifically, neither of the applied references teaches or suggests inserting unscheduled advertisements into a programming stream. Additionally, neither of the applied references teaches a queue having an ordered list of ARLs, where locations within the queue are sold. As such, the combination of Zigmond and Doherty is also lacking these features. Accordingly, independent claim 1 is believed to be allowable over the combination of Zigmond and Doherty.

New independent claim 60 recites the steps of “storing one or more queues...comprising an ordered list of unscheduled advertisements; selling locations in the queues;...and inserting unscheduled advertisements from the queues into said stream...” For the same reasons discussed above with respect to independent claim 1, Zigmond and Doherty do not teach or suggest all of the elements of independent claim 60. Accordingly, independent claim 60 is believed to be allowable over Zigmond and Doherty, both individually and in combination.

Dependent claims 2, 7, 8, 10, 12-18 and 61-72 are allowable at least by their dependency on independent claims 1 and 60, respectively. Claims 11, 19-21, 24-39, 47-52 and 56-59 have been canceled. Reconsideration and withdrawal of the Examiner's section 103(a) rejection of claims 1, 2, 7, 8, 10-21, 24-39, 47-52 and 56-59 are respectfully requested.

The Examiner has rejected claims 3-6, 9, 22, 40-46 and 53-55 as being unpatentable over Zigmond in view of Doherty, and further in view of U. S. Patent No. 6,505,169 to Bhagavath *et al.* (“Bhagavath”). As discussed above with respect to the Examiner's obviousness rejection of claims 1, 2, 7, 8, 10-21, 24-39, 47-52 and 56-59, independent claim 1 is believed to be allowable over the combination of Zigmond and Doherty. Applicants respectfully submit that Bhagavath does not teach or suggest any of the elements missing from such combination. Thus, independent claim 1 is believed to be allowable over the combination of Zigmond, Doherty and Bhagavath. Accordingly,

claims 3-6 and 9 are allowable at least by their dependency on independent claim 1.
Claims 22, 40-46 and 53-55 have been canceled. Reconsideration and withdrawal of the Examiner's section 103(a) rejection of claims 3-6, 9, 22, 40-46 and 53-55 are respectfully requested.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that the Examiner's rejections have been overcome, and that the application, including claims 1-10, 12-18 and 60-72, is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejections and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

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